

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

CIVIL NO. 1:03CV209

INTERNATIONAL TITANIUM
CORPORATION,

Plaintiff,

Vs.

BRYAN NOEL,

Defendant.

And

BRYAN NOEL,

Third-Party Plaintiff,

Vs.

INTERNATIONAL TITANIUM
CORPORATION; RICHARD L.
FOGELMAN; ANTHONY R.
FOGELMAN; SAMUEL BAILEY;
JAMES B. ROSE; ROSS W.
McINTOSH; MARTY MARMOR;
and GUSTAVO J. MAS;

Third-Party Defendants.

ORDER

THIS MATTER is before the Court on the Plaintiff's Notice of Settlement Discussions filed February 13, 2006.¹

Plaintiff's complaint was filed in August 2003 alleging breach of contract of various agreements in connection with a mineral mining venture in South America. **See Memorandum and Order, filed May 12, 2004, at 2-6.** After this Court dismissed some of Plaintiff's claims by way of the Memorandum and Order of May 12, 2004, the Defendant Bryan Noel filed answer with counterclaim as well as a third-party complaint against the Plaintiff herein and a number of other individuals. **See Answer and Counterclaim, filed June 7, 2004; Third-Party Complaint, filed June 7, 2004.** Noel had difficulty locating some of these individuals and requested more time to do so and limited discovery to determine their whereabouts. **See Order, filed November 2, 2004 (60 days to conduct limited discovery).** Just before the 60-day period expired, Noel requested another extension of time and was allowed an additional 90 days. **See Order, filed January 10, 2005.** Summons were reissued for Third-Party

¹Even though captioned as a "notice" to the Court, the Plaintiff's included a request that the Court stay these proceedings for 90 days to allow for the completion of these settlement discussions. The Court was advised by the Clerk of this pending "motion".

Defendants Richard L. Fogelman, Gustavo J. Mas and James B. Rose on March 23 and 24, 2004.

Until the Plaintiff's notice of on-going settlement discussions, this case has seen no activity in almost a year. In addition, Noel has had nearly two years to serve the third-party complaint and has yet to serve all the defendants named therein. And, since the Plaintiff's notice has been pending almost 90 days, the Court is of the opinion that the parties have had the benefit of a duly authorized stay and will deny the request.

IT IS, THEREFORE, ORDERED that the Plaintiff's request for a 90-day stay of this action is hereby **DENIED**.

IT IS FURTHER ORDERED that the Third-Party Plaintiff file appropriate motions regarding third-party Defendants who have not been served and those who have been served but have not filed responsive pleadings herein on or before **MAY 25, 2006**.

IT IS FURTHER ORDERED that the remaining parties meet and confer pursuant to this Court's Local Rule 16.1 on or before **JUNE 1, 2006**, and file a proposed discovery plan as outlined therein on or before **JUNE 12, 2006**.

Signed: May 8, 2006

A handwritten signature in dark ink, appearing to read "L. H. Thornburg", written over a horizontal line.

Lacy H. Thornburg
United States District Judge

